THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 13493 of 1998

DATE: 21-02-2007

Between :

Senapathi Krishnamurthy and 6 others.

… Petitioners

And

The Mandal Revenue Officer,
Garvidi Mandal,
Vizianagarm District and 2 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 13493 of 1998

ORDER:

The petitioners, 7 in number, were granted tree pattas by the first respondent-Mandal Revenue Officer, vide proceedings dated 18-09-1992 in respect of trees standing on different extents of land in Sy.No.18/1 and Sy.No.18/5 of M.Duggivalasa village on payment of tax specified thereunder.

Admittedly, the said land was initially assigned in favour of Mutta Venkatrayudu and Janardhan Naidu. On the death of Janardhan Naidu, since he was not survived by any legal heir, the patta was cancelled and the land was resumed to the Government. Subsequently, the third respondent herein, claiming to be the legal heir of late Janardhan Naidu, filed revision petition before the Government. Though the Government declined to interfere with the cancellation of D-Form patta, by order dated 02-08-1994 the Collector, Vizianagarm was directed to take further action on the application of the third respondent for regularization of the encroachment on payment of market value. Pursuant thereto, the first respondent issued notice dated 17-03-1998 to all the petitioners calling upon them to show cause as to why tree pattas granted in their favour should not be cancelled. Challenging the said show cause notice, this writ petition is filed.

I have heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

In the counter affidavit filed by the Mandal Revenue Officer, Garividi, it is stated as under:

> "It is true that the 1st respondent granted Tree patta to the petitioners in his Rc.No.493/90,B.dt. 18.9.92 on condition that petitioners paying a sum of Rs.10/- per each tree for one year. Each of the petitioners were allotted Cashew nut trees and Mango Trees. Even though the value fixed for payment of each trees at Rs.10/- on the representation made by the petitioner, the
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> 1st respondent reduced the amount at Rs.3/- per tree. Though the petitioners asked for assignment of the land, the Mandal Revenue Officer, Garividi, granted only tree pattas for enjoyment of usufruct for a period of one year. Thus, the M.R.O. in his Rc.No.493/90, dated 16.10.92 granted separate tree pattas to 7 petitioners under B.S.O. 18(2) (b) (11) Appendix XI. The form of the Tree patta under B.S.O. is the form of Order granting Trees under Tax system. As can be seen from the Tree Pattas, it is not Assignment of the Land. But only a Right to usufruct of the trees on payment of a fixed amount. The Tree pattas were granted for one year only i.e. for Fasli 1402. As the Government in its proceedings G.O.Ms.No.774, dt.02.8.94 directed the Collector, Vizianagaram, to work out the proposals for Regularization of land to the 3rd respondent, the M.R.O., did not renew the Lease for subsequent Faslies. The M.R.O. also did not collect the amount of Tax. "

The above said version of the respondents, particularly the plea that the tree patta was granted only for one year and subsequently the same was not renewed, has not been contradicted by the petitioners and nothing has been placed before this Court to show that the petitioners are holding any valid tree pattas as on today. As a matter of fact, the plea of the petitioners that they are in continuous possession and enjoyment of the trees covered by the patta has also been denied by the first respondent in his counter affidavit.

Be that as it may, since admittedly what is questioned in this writ petition is only a show cause notice, it is always open to the petitioners to submit their explanation together with relevant material to substantiate their right and interest in the land in question, if any. In the absence of any order effecting the rights of the petitioner the writ

petition itself is premature and cannot be entertained.

Accordingly, the writ petition is disposed of grating leave and liberty to the petitioners to submit their explanation in response to the impugned show cause notice dated 17-03-1998 within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the first respondent shall consider the same and pass appropriate orders in accordance with law. Till such time, as ordered by this Court on 13-05-1998, the *stuats quo* shall be maintained. No costs.

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G. ROHINI, J.

Date: 21-02-2007
KLP